



General Assembly

January Session, 2015

Raised Bill No. 893

LCO No. 3125



Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

AN ACT EXTENDING COST REPORTING DEADLINES FOR LONG-TERM CARE FACILITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 17b-340 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2015*):

4 (a) For purposes of this subsection, (1) a "related party" includes, but
5 is not limited to, any company related to a chronic and convalescent
6 nursing home through family association, common ownership, control
7 or business association with any of the owners, operators or officials of
8 such nursing home; (2) "company" means any person, partnership,
9 association, holding company, limited liability company or
10 corporation; (3) "family association" means a relationship by birth,
11 marriage or domestic partnership; and (4) "profit and loss statement"
12 means the most recent annual statement on profits and losses finalized
13 by a related party before the annual report mandated under this
14 subsection. The rates to be paid by or for persons aided or cared for by
15 the state or any town in this state to licensed chronic and convalescent

16 nursing homes, to chronic disease hospitals associated with chronic
17 and convalescent nursing homes, to rest homes with nursing
18 supervision, to licensed residential care homes, as defined by section
19 19a-490, and to residential facilities for persons with intellectual
20 disability that are licensed pursuant to section 17a-227 and certified to
21 participate in the Title XIX Medicaid program as intermediate care
22 facilities for individuals with intellectual disabilities, for room, board
23 and services specified in licensing regulations issued by the licensing
24 agency shall be determined annually, except as otherwise provided in
25 this subsection, after a public hearing, by the Commissioner of Social
26 Services, to be effective July first of each year except as otherwise
27 provided in this subsection. Such rates shall be determined on a basis
28 of a reasonable payment for such necessary services, which basis shall
29 take into account as a factor the costs of such services. Cost of such
30 services shall include reasonable costs mandated by collective
31 bargaining agreements with certified collective bargaining agents or
32 other agreements between the employer and employees, provided
33 "employees" shall not include persons employed as managers or chief
34 administrators or required to be licensed as nursing home
35 administrators, and compensation for services rendered by proprietors
36 at prevailing wage rates, as determined by application of principles of
37 accounting as prescribed by said commissioner. Cost of such services
38 shall not include amounts paid by the facilities to employees as salary,
39 or to attorneys or consultants as fees, where the responsibility of the
40 employees, attorneys, or consultants is to persuade or seek to persuade
41 the other employees of the facility to support or oppose unionization.
42 Nothing in this subsection shall prohibit inclusion of amounts paid for
43 legal counsel related to the negotiation of collective bargaining
44 agreements, the settlement of grievances or normal administration of
45 labor relations. The commissioner may, in the commissioner's
46 discretion, allow the inclusion of extraordinary and unanticipated
47 costs of providing services that were incurred to avoid an immediate
48 negative impact on the health and safety of patients. The commissioner
49 may, in the commissioner's discretion, based upon review of a facility's

50 costs, direct care staff to patient ratio and any other related
51 information, revise a facility's rate for any increases or decreases to
52 total licensed capacity of more than ten beds or changes to its number
53 of licensed rest home with nursing supervision beds and chronic and
54 convalescent nursing home beds. The commissioner may so revise a
55 facility's rate established for the fiscal year ending June 30, 1993, and
56 thereafter for any bed increases, decreases or changes in licensure
57 effective after October 1, 1989. Effective July 1, 1991, in facilities that
58 have both a chronic and convalescent nursing home and a rest home
59 with nursing supervision, the rate for the rest home with nursing
60 supervision shall not exceed such facility's rate for its chronic and
61 convalescent nursing home. All such facilities for which rates are
62 determined under this subsection shall report on a fiscal year basis
63 ending on September thirtieth. Such report shall be submitted to the
64 commissioner by [December thirty-first] February fifteenth. Each for-
65 profit chronic and convalescent nursing home that receives state
66 funding pursuant to this section shall include in such annual report a
67 profit and loss statement from each related party that receives from
68 such chronic and convalescent nursing home fifty thousand dollars or
69 more per year for goods, fees and services. No cause of action or
70 liability shall arise against the state, the Department of Social Services,
71 any state official or agent for failure to take action based on the
72 information required to be reported under this subsection. The
73 commissioner may reduce the rate in effect for a facility that fails to
74 submit a complete and accurate report on or before [December thirty-
75 first] February fifteenth by an amount not to exceed ten per cent of
76 such rate. If a licensed residential care home fails to submit a complete
77 and accurate report, the department shall notify such home of the
78 failure and the home shall have thirty days from the date the notice
79 was issued to submit a complete and accurate report. If a licensed
80 residential care home fails to submit a complete and accurate report
81 not later than thirty days after the date of notice, such home may not
82 receive a retroactive rate increase, in the commissioner's discretion.
83 The commissioner shall, annually, on or before [February fifteenth]

84 April first, report the data contained in the reports of such facilities to
85 the joint standing committee of the General Assembly having
86 cognizance of matters relating to appropriations and the budgets of
87 state agencies. For the cost reporting year commencing October 1,
88 1985, and for subsequent cost reporting years, facilities shall report the
89 cost of using the services of any nursing pool employee by separating
90 said cost into two categories, the portion of the cost equal to the salary
91 of the employee for whom the nursing pool employee is substituting
92 shall be considered a nursing cost and any cost in excess of such salary
93 shall be further divided so that seventy-five per cent of the excess cost
94 shall be considered an administrative or general cost and twenty-five
95 per cent of the excess cost shall be considered a nursing cost, provided
96 if the total nursing pool costs of a facility for any cost year are equal to
97 or exceed fifteen per cent of the total nursing expenditures of the
98 facility for such cost year, no portion of nursing pool costs in excess of
99 fifteen per cent shall be classified as administrative or general costs.
100 The commissioner, in determining such rates, shall also take into
101 account the classification of patients or boarders according to special
102 care requirements or classification of the facility according to such
103 factors as facilities and services and such other factors as the
104 commissioner deems reasonable, including anticipated fluctuations in
105 the cost of providing such services. The commissioner may establish a
106 separate rate for a facility or a portion of a facility for traumatic brain
107 injury patients who require extensive care but not acute general
108 hospital care. Such separate rate shall reflect the special care
109 requirements of such patients. If changes in federal or state laws,
110 regulations or standards adopted subsequent to June 30, 1985, result in
111 increased costs or expenditures in an amount exceeding one-half of
112 one per cent of allowable costs for the most recent cost reporting year,
113 the commissioner shall adjust rates and provide payment for any such
114 increased reasonable costs or expenditures within a reasonable period
115 of time retroactive to the date of enforcement. Nothing in this section
116 shall be construed to require the Department of Social Services to
117 adjust rates and provide payment for any increases in costs resulting

118 from an inspection of a facility by the Department of Public Health.
119 Such assistance as the commissioner requires from other state agencies
120 or departments in determining rates shall be made available to the
121 commissioner at the commissioner's request. Payment of the rates
122 established pursuant to this section shall be conditioned on the
123 establishment by such facilities of admissions procedures that conform
124 with this section, section 19a-533 and all other applicable provisions of
125 the law and the provision of equality of treatment to all persons in
126 such facilities. The established rates shall be the maximum amount
127 chargeable by such facilities for care of such beneficiaries, and the
128 acceptance by or on behalf of any such facility of any additional
129 compensation for care of any such beneficiary from any other person
130 or source shall constitute the offense of aiding a beneficiary to obtain
131 aid to which the beneficiary is not entitled and shall be punishable in
132 the same manner as is provided in subsection (b) of section 17b-97. For
133 the fiscal year ending June 30, 1992, rates for licensed residential care
134 homes and intermediate care facilities for individuals with intellectual
135 disabilities may receive an increase not to exceed the most recent
136 annual increase in the Regional Data Resources Incorporated McGraw-
137 Hill Health Care Costs: Consumer Price Index (all urban)-All Items.
138 Rates for newly certified intermediate care facilities for individuals
139 with intellectual disabilities shall not exceed one hundred fifty per cent
140 of the median rate of rates in effect on January 31, 1991, for
141 intermediate care facilities for individuals with intellectual disabilities
142 certified prior to February 1, 1991. Notwithstanding any provision of
143 this section, the Commissioner of Social Services may, within available
144 appropriations, provide an interim rate increase for a licensed chronic
145 and convalescent nursing home or a rest home with nursing
146 supervision for rate periods no earlier than April 1, 2004, only if the
147 commissioner determines that the increase is necessary to avoid the
148 filing of a petition for relief under Title 11 of the United States Code;
149 imposition of receivership pursuant to sections 19a-542 and 19a-543; or
150 substantial deterioration of the facility's financial condition that may
151 be expected to adversely affect resident care and the continued

152 operation of the facility, and the commissioner determines that the
153 continued operation of the facility is in the best interest of the state.
154 The commissioner shall consider any requests for interim rate
155 increases on file with the department from March 30, 2004, and those
156 submitted subsequently for rate periods no earlier than April 1, 2004.
157 When reviewing an interim rate increase request the commissioner
158 shall, at a minimum, consider: (A) Existing chronic and convalescent
159 nursing home or rest home with nursing supervision utilization in the
160 area and projected bed need; (B) physical plant long-term viability and
161 the ability of the owner or purchaser to implement any necessary
162 property improvements; (C) licensure and certification compliance
163 history; (D) reasonableness of actual and projected expenses; and (E)
164 the ability of the facility to meet wage and benefit costs. No interim
165 rate shall be increased pursuant to this subsection in excess of one
166 hundred fifteen per cent of the median rate for the facility's peer
167 grouping, established pursuant to subdivision (2) of subsection (f) of
168 this section, unless recommended by the commissioner and approved
169 by the Secretary of the Office of Policy and Management after
170 consultation with the commissioner. Such median rates shall be
171 published by the Department of Social Services not later than April
172 first of each year. In the event that a facility granted an interim rate
173 increase pursuant to this section is sold or otherwise conveyed for
174 value to an unrelated entity less than five years after the effective date
175 of such rate increase, the rate increase shall be deemed rescinded and
176 the department shall recover an amount equal to the difference
177 between payments made for all affected rate periods and payments
178 that would have been made if the interim rate increase was not
179 granted. The commissioner may seek recovery of such payments from
180 any facility with common ownership. With the approval of the
181 Secretary of the Office of Policy and Management, the commissioner
182 may waive recovery and rescission of the interim rate for good cause
183 shown that is not inconsistent with this section, including, but not
184 limited to, transfers to family members that were made for no value.
185 The commissioner shall provide written quarterly reports to the joint

186 standing committees of the General Assembly having cognizance of
187 matters relating to aging, human services and appropriations and the
188 budgets of state agencies, that identify each facility requesting an
189 interim rate increase, the amount of the requested rate increase for
190 each facility, the action taken by the commissioner and the secretary
191 pursuant to this subsection, and estimates of the additional cost to the
192 state for each approved interim rate increase. Nothing in this
193 subsection shall prohibit the commissioner from increasing the rate of
194 a licensed chronic and convalescent nursing home or a rest home with
195 nursing supervision for allowable costs associated with facility capital
196 improvements or increasing the rate in case of a sale of a licensed
197 chronic and convalescent nursing home or a rest home with nursing
198 supervision, pursuant to subdivision (15) of subsection (f) of this
199 section, if receivership has been imposed on such home.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	July 1, 2015	17b-340(a)
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Statement of Purpose:

To extend the time long-term care facilities have to file cost reports with the state.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]